

WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
THURSDAY, MARCH 24, 2005, 1:00 P.M.

CALL TO ORDER

Walter Baade, Chairperson, called the meeting to order at 1:00 p.m.

Commission

Members Present:	Walter Baade	Mareth Kipp	Pat Haukohl
	Gary Goodchild	Walter Kolb	Ellen Gennrich

Commission

Members Absent: Betty Willert

Staff

Members Present: Dale Shaver, Director, Department of Parks and Land Use
Richard L. Mace, Planning and Zoning Manager
James W. Kavemeier, Parks System Manager
Kathy Brady, Secretary Supervisor
Mark Mader, Legislative Policy Advisor
Kathy Moore, Senior Planner

Guests Present:	Randy Melody	Tony Zanon	Myra Kingstad
	Robert Peregrine	Kathy Nickolaus	John Wilson

PUBLIC COMMENT

Chairperson Baade asked if anyone from the audience wished to address the Commission? There being no one, he moved to the next item on the agenda.

MINUTES

- *Mrs. Gennrich moved, seconded by Mrs. Haukohl and carried unanimously, for approval of the January 13, Minutes, as corrected.*

- **1:00 p.m. Parkland Acquisition** by James W. Kavemeier, Parks System Manager

Mr. Kavemeier said, on February 10, 2005, he presented the outline for the proposed update to the Park and Open Space Plan to the Commission. One of the items was to go out to the communities and speak with them regarding coordination of the Park and Open Space Plan and identifying roles and responsibilities, ultimately working towards reaching an agreement. He reviewed the discussion of February 10, 2005.

The Park and Open Space Plan is part of the Waukesha County Development Plan and Smart Growth initiative and is updated approximately every five years. Currently, there are 7,694 acres of parkland, eight major parks (250 acres or more in size), Retzer Nature Center, 29 miles of various trails, five lake access points and six swimming beaches in Waukesha County. Objectives include, a major park being located within a 4-mile lineal distance of every resident, involvement in the protection of environmental corridors and isolated natural areas and the establishment of greenways along the eight major rivers in Waukesha County. The vision of Greenway Planning is to create a system of linear corridors along the County's major rivers and streams which would protect the high quality natural resource based elements, connect major state, county and local parkland, as well as other community social and cultural amenities and provide recreational and educational opportunities for the use and enjoyment of present and future generations. Mr. Kavemeier explained, the greenway cross-section as having preservation

zones (varied width, protects the high quality natural features), buffer zones (10' to 75', provides distance between residential and commercial development) and trail corridor zones (40' with an additional 25' visual buffer, accommodates a 10' wide asphalt trail). The County presently has 8' wide trails, however, as the County grows they would not be sufficient because of their increasing popularity. The width of most trails outside of the State average 10'. In addition, a 10' trail would be eligible for federal grants (80/20 cost share).

Mrs. Kipp asked if there are trails available for equestrian uses? Mr. Kavemeier replied, there are equestrian trails in Minooka, Muskego and Menomonee Parks. He pointed out the areas in orange on the Park and Open Space Plan, which are areas intended for the County to acquire. The question has been raised as to how much land the County should acquire, and if there are other ways to acquire and maintain properties. Currently, it is accomplished with donations, dedications, land use regulation, easements to preserve land, etc. He explained there is a great deal of land in the Primary Environmental Corridors, which is presently called for as preservation in one form or another. The County would like to propose to the local communities limiting the County's active acquisition to the completion of the major park sites and the implementation of the greenway cross-section. Anything outside of that would be subject to land use regulation or if it is any area that is separate, the County is recommending that an NCO or a local community acquire the land. Tributaries to the major rivers, which the greenway follows would be the responsibility of the local community. The County would create the spine (larger areas) and will recommend that the local communities provide the active recreation (baseball diamonds, soccer fields, etc.). The County would provide for the self-actualized recreation within the parks (non-programmed activities-leisure). Mr. Kolb asked if the "land use regulation" which was mentioned above was more regulation than is presently imposed? Mr. Kavemeier, replied "No," and explained that many of those areas are unbuildable. Mr. Kolb was concerned regarding additional regulations of any kind being placed on Environmental Corridors. Currently, one house per five acres is allowed in Environmental Corridors but it should not be more restrictive so as not to affect property owner's rights. Mrs. Kipp said as she understood, the County would be looking for more partnerships with the communities with regards to conservancies and maximizing the money the County has to acquire these types of sites and added that she supports the idea. Mr. Kavemeier agreed, and said it would reduce the amount of land shown for County acquisition. Mrs. Gennrich asked how much land would be reduced on the plan and why is it being done? Mr. Kavemeier responded, that he was unsure of the total amount of land and further explained there is a great deal of Environmental Corridor shown on the Plan for County acquisition. The County must determine what would be done with and how the County would manage the land, and ultimately is it really necessary to manage the land. The County should maintain (within the greenway cross-section) the wetlands, high quality vegetation and buffers and is concentrating their efforts where the most good could be done such as Best Management Practices for clean water and recreation initiatives and the preservation of high quality areas to create wildlife corridors. Mrs. Kipp said there is nothing wrong with asking the local communities to step up and be responsible for some of the valuable lands within their own communities, rather than the County. Mrs. Gennrich and Mrs. Haukohl strongly disagreed and expressed concerns regarding changing the Park and Open Space Plan and which lands the County would be responsible for acquiring. Mrs. Haukohl asked, which lands the County would not be interested in acquiring and said as she understood it the only way to protect any piece of property is to own it. She did not think the local municipalities would be able to purchase those lands due to their own budgetary problems. Mrs. Gennrich agreed, and asked how land could be pulled out of the Park and Open Space Plan without going to the County Board? Mr. Kavemeier replied that the Park and Open Space Plan is in the process of being updated. Meetings would be held with the State, NCO's and the local communities, going through each Township and identifying areas, which would be their responsibility. Mrs. Gennrich said she would like to see the amount of acres currently shown on the Plan for County acquisition and how

much it will change from the adopted Park and Open Space Plan. Mr. Kolb expressed concerns regarding the consideration of property owner's rights to develop valuable lands. Mr. Kavemeier said the County gets involved in an acquisition when the property owner is deciding to sell. An appraisal is completed and the County pays the same as what a developer would pay.

Mr. Goodchild asked if the bike and pedestrian trail along Meadowbrook Road was a County trail? Mr. Kavemeier replied, "Yes". Mr. Goodchild wondered if the County would be involved with the State when a major arterial (such as S.T.H. 67 or S.T.H. 83) is being redone and if there would be a chance for State funds to be available for the same type of trail to keep pedestrian/bike traffic off the highway. Mr. Kavemeier said that traditionally, the County is not involved, however, the County has spoke with the State on the improvements for S.T.H. 83 but there is some reluctance on the part of the State to place those types of trails along major highways. Mr. Goodchild noted the local governments (such as the Town of Ottawa) do not have the expertise to get involved with acquiring conservancy areas due to Board members which change and he felt the County should take the lead. Mr. Kavemeier said when the County comes back before the Commission with the Plan, (after meeting with the communities), the areas of responsibility would be outlined and the Commission will have the chance to review. He felt the Commission would be pleasantly surprised.

Mr. Melody, from Harmony Homes, asked if anything beyond the high value natural resource and Natural Areas (NA) would be regulated, particularly in the buffer zone short of the developments and also asked how the buffer zone would be determined? Mr. Kavemeier replied, the buffer zone is between 10' and 75' in accordance with NR 151. It is a protection area containing long grasses and is meant to filter out contaminants coming from developments. Recently, the County met with the DNR and they are administering it in this manner. If the area in question is within the Primary Environmental Corridor, the DNR is requiring a 75' buffer to that area of protection as well (from the wetlands). Mr. Melody asked if there is an evaluation of the potential risk and former use vs. the grass cover? He also asked if there is an evaluation of the kind of enhancement in that type of habitat, which could be done when setting the limits? Mr. Kavemeier replied, in terms of imposing the buffer, in the past it was based on the quality of the wetland. If it was a poor quality wetland it could be 10' and if it was a high quality wetland it would be 75', which was determined by the DNR after a site visit. The most recent ruling is that it would be 75', and it is not based on the quality of the wetland.

- **1:45 p.m. Public Participation Plan** by Dale Shaver, Director, Waukesha County Department of Parks and Land Use

Mr. Shaver said the County is in the process of updating the Waukesha County Development Plan. As a group, 26 of the 37 municipalities applied for a Comprehensive Planning Grant. Notice was received that Waukesha County was a grant recipient on behalf of 24 of the 26 municipalities. What is envisioned for the County's portion of the grant money is to write a "Memorandum of Understanding" with the University of Wisconsin Extension, particularly Jerry Braatz, Community Development Agent for Waukesha County. Mr. Braatz helped write the grant and will now take the lead in the public participation process. He further explained that Wisconsin's new Smart Growth and Comprehensive Planning law requires public participation throughout the comprehensive planning process. Wisconsin Statutes, Section 66.1001(4)(a) requires, in part, that "The governing body of a local governmental unit shall adopt written procedures that are designed to foster public participation, including open discussion, communication programs, information services and public meetings for which advance notice has been

provided, in every stage of the preparation of a comprehensive plan. The written procedures shall provide for a wide distribution of proposed, alternative, or amended elements of a comprehensive plan to be submitted by members of the public to the governing body and for the governing body to respond to such written comments”.

The Waukesha County Comprehensive Development Plan Advisory Committee decided to write a Public Participation Plan, which is divided into six methods.

Method 1: Comprehensive Development Plan Advisory Committee and Subcommittees

The Committee and Subcommittees have been established to help guide the planning process and are made up of representatives from all participating municipalities. They are responsible for providing leadership and guidance during the plan development process and keeping people informed in the community they represent.

Method 2: Committee and Subcommittee Meetings

All planning committee meetings are open to the public and all agendas and meeting minutes are posted though the Waukesha County Department of Parks and Land Use website. The website will also contain information which was presented at each meeting with time set aside at each meeting for public participation.

Method 3: News Releases

News releases will be utilized to create public awareness. A media series could follow the planning process along its key steps.

Method 4: Citizen Survey

The citizen survey will provide an opportunity for residents to provide feedback with regard to their opinions, beliefs and attitudes. The Committee will make every effort to acknowledge citizen ideas, concerns and opinions. One idea is for County residents to participate through an electronic version. A website would be utilized and a database would be populated. The survey could also include written or phone surveys. Mrs. Haukohl said that local government newsletters provide information and have a survey included for opinions to be submitted. Mr. Shaver said the communities have offered to include their community newsletters for that purpose.

Method 5: Open Houses

The Waukesha County Comprehensive Development Plan Advisory Committee would sponsor open houses and the municipalities involved in the process will coordinate in hosting the open houses. Key information could be laid out as the process is developed.

Method 6: Public Hearing

A public hearing would be held at the end of the planning process (required by State Statutes) and will allow residents to receive information and provide public input on the comprehensive plan.

Mrs. Gennrich said in the Statutes, property owners whose property is affected by a change would have to be notified. She asked if neighboring properties would also be notified? Mr. Shaver replied, that he did not think the Statute addresses that situation. However, there have been internal discussions with the Staff in changing that process. Mr. Shaver said that participants would have the opportunity to provide written comments one week after the public hearing. He also noted that the 26 municipalities are required to adopt the strategy on their own. Mrs. Kipp asked if a municipality would choose to opt out for whatever reason, would funds be available for them to create their own updated Smart Growth Plan?

Mr. Shaver replied, "Yes", however, it would be difficult for a community in Waukesha County to get funds beyond what was received in the cooperative joint grant. Mrs. Haukohl asked what was the total amount of the grant, which was received? Mr. Shaver answered, \$812,000.00, which would be split between the County and the 24 municipalities. He added an Ordinance would be brought through once the grant is received to amend the County's budget to set up the expenditure authority for the department and to contract with the UW Extension and to distribute the funds to the 24 participating municipalities. The Commission thanked Mr. Shaver for the informative presentation.

• **2:00 p.m. SZ-1559 (Greg and Kathy Nickolaus) Town of Oconomowoc, Section 36**

Mr. Mace pointed out the location of the property on Wisconsin Avenue in the Town of Oconomowoc on the aerial photograph and indicated the petitioner requests a further discussion of the conditions of the rezoning, approved by the Commission on February 24, 2005.

Mr. Mace indicated the Commission approved the rezoning of the abovementioned property (with conditions) from the R-3 Residential District to the B-2 Local Business District to convert an existing detached garage to a bait and tackle shop. The Ordinance was forwarded to the Land Use, Parks and Environment Committee (LUPE). An issue of concern was brought forth at the LUPE Committee meeting by the petitioner concerning one condition stating that there would be no access to Florence Lake for commercial purposes. She requested the condition be removed, and the LUPE Committee suggested the rezone come back to the Park and Planning Commission for review. The Planning and Zoning Division Staff does not wish to change any of the conditions placed on the rezone. Mr. Kolb, who was present at the LUPE Committee meeting, explained that the petitioner wanted the customers of the bait and tackle shop to be able to try out the baits purchased on the lake. The LUPE Committee's general consensus was that the Planning and Zoning Division Staff's recommendation and conditions were appropriate. Mrs. Kipp asked if customers would try out the baits in a boat or from the shore? Mr. Kolb replied, "From the shore". Mrs. Gennrich asked if the lake has public access? Mr. Mace replied, the lake is private. Mrs. Haukohl asked if there were residential properties on either side of the petitioner's property? Mr. Mace replied "Yes". Mrs. Kipp pointed out that there are commercial properties across the street. Mr. Mace added the Land Use Plan calls for the area to be commercial as well. Mr. Goodchild said there were also questions at the first meeting regarding parking for the customers. Mr. Mace pointed out the topography of the property and said there are very steep slopes leading down to the lake.

Ms. Nickolaus, petitioner, said that the property is walkable down to the lake and she is requesting for customers to be able to try out the baits purchased. She added, the Town did not have a problem with the request and did not add the condition and that the County Staff added the condition after the Town approved the matter. She suggested the restriction be added to the Site Plan/Plan of Operation rather than the rezone because if she wanted to have the condition removed later on, it would cost her another \$400.00 (the cost of a zoning change). She said there is access to the lake from the Fire Department's property and they do allow it. Mr. Baade said he did not believe that was correct because the Fire Department's land is private property, and it is a private corporation, not owned by the Town. Ms. Nickolaus wondered if customers who live on the lake would have to drive to the business rather than coming onto her property from the lake? She further explained there is adequate parking (six parking spots) for customers of the bait shop. In discussions with the Town of Oconomowoc Planner, it was zoned for a bait shop with no other considerations. No boat slips would be added and no boats would be rented out. She does allow people (friends) to use her property and that is her right as a resident and property owner. Mrs. Haukohl asked if people pay to use the lake? Ms. Nickolaus replied "No". Mr. Kolb said in regards to the condition, it would not prevent the petitioner from having friends use the property for access to the lake, only customers of the bait and tackle shop would be affected.

Ms. Nickolaus did not want the restriction to be placed on the property, which in essence would not allow people who live on the lake to come up her property and purchase bait or for people who wanted to try bait out. She thought it should be included in the Site Plan/Plan of Operation. Mrs. Haukohl asked if the issue could be dealt with in the Site Plan/Plan of Operation? Mr. Mace replied, "No", and felt it should be in the rezone because it is not appropriate for the property to be used for any use other than a bait and tackle shop as conditioned by the Town. Mrs. Kipp agreed and added, what would stop someone from trying out the bait and staying there and the property becoming an available place to fish. Mrs. Haukohl asked if the Town has issues with customers trying out bait at the lake? Mr. Baade said that Mr. Peregrine, Town of Oconomowoc Plan Commissioner was present and could explain the details from the Town's point of view. Mr. Peregrine said when the Town discussed the matter, the seven property owners of Florence Lake (who are extremely passionate about the lake) expressed concerns regarding the protection of the lake. The Town was restrictive in the Mission Lakes plan for the construction of handicap suitable access to the lake. He noted the property contains a 40° bank going down to the lake. He felt the condition regarding no commercial access to the lake makes sense because it would have been in the Plan of Operation without a doubt. The Town agreed to conditionally rezone the property for a bait shop and supports the inclusion of the County's condition in the rezoning regarding no commercial access to the lake. He felt with the steep slopes on the property it could become a liability for the property owner to allow access to the lake for customers. Ms. Nickolaus said the property can be walked on all the way down to the lake. She added that there were no neighbor problems until the rezone was requested. A neighbor did call her about some grill ashes and cigarette butts, which had been left on the ice of Florence Lake by her son and his friends while ice fishing, however, the debris was cleaned up. Ms. Nickolaus asked if she, as the property owner, would be able to seine due to the wording of the condition (no access to the lake for commercial purposes)? The Commission was unsure, however, suggested that it may be a DNR issue. She asked, would customers be allowed to make a purchase from the bait and tackle shop if they were ice fishing and walked from the lake, through her property to the shop? Mr. Mace replied that he did not feel that would be an issue. A member of the audience suggested a "private property" sign could be placed on the property. Mrs. Gennrich said a sign could be posted saying that there is no access to the lake from the property.

The Commission felt that because the Town supports the inclusion of the condition, the steep slopes on the property and the concerns of the neighbors that the condition should not be removed.

After discussion, there was no motion to reconsider the conditions set forth and approved at the February 24, 2005, Commission meeting.

• **SZ-1459B and CZ-1459C (Text Amendments - Waukesha County Zoning Code and Waukesha County Shoreland and Floodland Protection Ordinance)**

Mr. Mace presented the "Staff Report and Recommendation" dated March 24, 2005, and made a part of these Minutes. He indicated the request is for Text Amendments for the Waukesha County Zoning Code and the Waukesha County Shoreland and Floodland Protection Ordinance pertaining to the definition of building height, legal lots of record and certain zoning districts having a three tier measurement for building height.

Mrs. Haukohl expressed concerns regarding that on waterfront lots, buildings can be no more than three stories when viewed from the water body. Mrs. Gennrich agreed and understood it would allow a two-story house with an exposed basement, however, she wished there was a specific height mentioned. Mr. Mace said the height regulation states "A point measured from the lowest exposed point of the proposed structure to the highest point of any roof shall not exceed 46 feet". Referring to the amendment to Section 3.10(2)(E), "Such substandard lots shall be in separate ownership from abutting

lots. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be resold or used without full compliance with the minimum lot area requirements of the R-3 Residential District or as close to that minimum as possible". Mrs. Haukohl asked, what if the husband owns one lot and the wife owns the other? Mr. Mace referred to a case in the Town of Eagle 25± years ago where a family owned many lots and the ruling was considered to be under one ownership. Mr. Baade said he bought the lot next door to his, and it is considered a nonconforming lot because there is a house on it and he is currently in the process of trying to sell it. Mrs. Gennrich thought it wouldn't apply to the amendment because it is referring to vacant lots. Mr. Kolb thought there were some court cases with the argument that there was a lot recorded as a buildable lot (before a certain date) and even though it was substandard it could be built on. He thought the first set of amendments rejected this idea and now it was trying to be pushed through once again. Mr. Mace said the amendment contains the same language which has been in the Ordinance since 1970 and the only change was the reference to a specific date, July 30th, and the word "or frontage" was added as specified in Section 3.10(2)(E). Mrs. Kipp said many of these types of lots have been sold since 1970, which were substandard lots of record. Mr. Kolb added that every time the County tried to change the language, a lawsuit was filed and was lost and now they are trying to change it more. Mr. Mace said the original proposal for the amendment (six months ago) was more inclusive than the language now. Mr. Kolb asked if property owners with lots of record, 50' of frontage and also own the property next door could sell the lot next door and would it be a buildable lot in which a residence could be constructed upon? Mrs. Kipp replied, only if it was developed before 1970. Ms. Moore, Senior Planner, said the courts said it could be sold but if a house can't be built on it in a conforming location, the Board of Adjustment does not have to grant them a Variance to do so, because it is a self-created hardship. Mr. Kolb said as he understood it people were told this after the lots were sold and they went to court and the County lost. Ms. Moore said the court said they can't stop people from selling the lots however, if they can't meet all of the Ordinance requirements on the new lot, they do not have to get Variances to be allowed to build something on it. Mr. Kolb and Mr. Baade disagreed and had trouble with the language and thought it was unfair to the property owner. Mr. Kolb asked if the Metropolitan Building Association was aware of the change? Ms. Moore replied, "Yes".

After discussion, Mrs. Gennrich moved, seconded by Mr. Kolb and carried by a vote of 4 to 2 (Mr. Kolb and Mr. Baade voted against), for approval, in accordance with the "Staff Report and Recommendation" for both the Text Amendments to the Waukesha County Zoning Code and the Waukesha County Shoreland and Floodland Protection Ordinance.

- **SVZ-1554 (Welch Hanson and Associates) Village of Dousman, Section 4 (RRD-5 Rural Residential Density District 5 and A-E Exclusive Agricultural Conservancy Districts to the R-3 Residential and C-1 Conservancy Districts)**

Mr. Mace presented the "Staff Memorandum" dated March 24, 2005, and made a part of these Minutes. He pointed out the location of the property, east of Gramling Lane immediately north of Scuppernong Creek and adjacent to the west shore of Utica Lake in the Village of Dousman on the aerial photograph.

The Commission briefly discussed the Planning and Zoning Division Staff's recommendation and decided that no action be taken at this time.

After a brief discussion, Mrs. Haukohl moved, seconded by Mrs. Gennrich and carried unanimously, that no action be taken at this time until the floodplain fill rezone amendment is dealt with, at which time, the Planning and Zoning Division Staff will merge both issues into a single recommendation.

• **SCU-1396 (Whitetail Hills Subdivision) Town of Merton, Sections 1 and 2**

Mr. Mace presented the “Staff Report and Recommendation” dated March 24, 2005, and made a part of these Minutes. He pointed out the location of the property in the Town of Merton on the aerial photograph and stated the petitioner is requesting a Conditional Use Permit for a Planned Unit Development (PUD) on the portion of properties located within the Waukesha County Shoreland and Floodland Jurisdictional Limits.

Mr. Mace indicated the PUD was considered in the 2004 amendments to the Waukesha County Development Plan. The plan amendment indicated the petitioners must complete the project as a PUD, have no more than 27 lots and 3.5 acres per dwelling unit. The proposed layout which has been submitted contains a density of 3.4 acres and a fraction with the wetlands and Natural Areas (NA-III) areas being set aside in open space. The Staff is requesting that it be revised to reflect more accurately what the plan amendment requested. Mr. Zanon, from Jahnke and Jahnke, presented the proposed layout to the Commission. He pointed out the lots, which are located within the shoreland jurisdiction area, the Primary Environmental Corridors (PEC) and NA-III areas. The revised layout removes the road extension to the north (Dieball Lane), which would have intersected with Center Oak Road and replaced it with a road extension to the adjacent property to the west. The property owner to the west is planning to develop that property and would extend the road from Whitetail Hills to the west and north, intersecting with Center Oak Road on his property rather than on the Whitetail Hills property. Twenty-eight lots are being proposed, however, the Staff required 27 lots and the developer is looking into purchasing property from the neighbor to increase the number of lots to 28. Mrs. Gennrich noted that in discussions with the Planning and Zoning Division Staff, she requested the natural areas be placed in some type of public ownership, rather than being owned by the lot owners due to the fact that they contain a significant plant community. Mrs. Haukohl asked if the width of the lots had been reduced from 200’ to 150’? Mr. Mace replied that he would like to see the lots narrowed and it is referred to in Condition No. 4. Mrs. Haukohl asked what is being changed from the original plan? Mr. Mace replied, the subdivision would be a PUD, the lot widths would be reduced and density would be 3.5-acres. Mr. Zanon added it would be a cluster development with 50% green space. There was discussion regarding the road access to the west. Mrs. Kipp asked if this developer is required to extend the road and include the cul-de-sac? Mr. Zanon replied, that it has been discussed with the Town. Mr. Mace said all developers are required to build the road improvement in the street extension. Mrs. Kipp asked what would happen with the 66’ right-of-way? Mr. Zanon replied that it would stay.

After discussion, Mr. Kolb moved, seconded by Mrs. Gennrich and carried unanimously, for approval, as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

• **SCU-1394 (John Wilson) Town of Merton, Section 11**

Mr. Mace presented the “Staff Report and Recommendation” dated March 24, 2005, and made a part of these Minutes. He pointed out the location of the property in the Town of Merton on the aerial photograph and stated the petitioner is requesting a Conditional Use Permit for earth-altering activities in conjunction with the removal of several retaining walls and the construction of a new retaining wall.

Mr. Mace said the petitioner has a 4’ high deteriorating railroad tie wall and a 2’ to 3’ high stone wall below the railroad tie wall, located a few feet from the railroad tie wall. There is also another railroad tie wall a few feet in height below the stone wall. In addition, there is also an old stone wall directly behind the upper railroad tie wall. The petitioner is proposing to leave the old stone wall, located directly behind the railroad tie wall for support and remove the railroad tie wall and stone wall below the

railroad tie wall. Mr. Wilson, petitioner asked if Condition No. 5 could be removed, which required documentation from the Engineer being submitted stating that the existing walls cannot be replaced in their existing locations and would be structurally sound and that the proposed design causes the least impacts relating to land disturbance and aesthetics. He referred to the submitted photographs and stated there is no other way to do to the project and he has an engineered plan. Mr. Mace suggested the engineer submit documentation to the Planning and Zoning Division Staff indicating that the existing walls are structurally unsound and need to be replaced. Mrs. Gennrich felt the wording in Condition No. 5 is confusing. Mr. Wilson said due to the steep slopes, he does not want to remove the existing concrete wall because it is holding the fill in place. Mr. Mace suggested that since there is a plan, that Condition No. 5 could be removed. The Commission agreed. Mr. Wilson also referred to Condition No. 6, which required a revised Grading Plan be submitted, identifying the location of the proposed stairway and any additional grade changes, prior to the issuance of any permits. He said a stairway is proposed on the far west end, but at this point he is not sure if there will be stairs or possibly a path tying into the existing stairs. Mrs. Gennrich asked if the grade would be changed for the path? Mr. Wilson replied "No". Mr. Mace said a Grading Plan has not been submitted and it is a standard requirement for all retaining walls. Mrs. Kipp asked if the railroad ties are removed, what will be placed in front of the concrete wall? Mr. Wilson replied it would be backfilled from the concrete to the new wall. The Commission suggested that Condition No. 6 be revised to read "A Grading Plan shall be submitted, identifying the location of any proposed stairway or path and any additional grade changes, prior to the issuance of any permits".

After discussion, Mrs. Gennrich moved, seconded by Mrs. Haukohl and carried unanimously, for approval, as conditioned, in accordance with the "Staff Report and Recommendation" with the following changes:

- *Condition No. 5 shall be removed.*
- *Condition No. 6 (renumbered to Condition No. 5) shall now read:*

"A Grading Plan shall be submitted, identifying the location of any proposed stairways or paths and any additional grade changes, prior to the issuance of any permits."

The approval of this request, will allow the petitioner a reasonable use of his land and still promote and meet the intent and purposes of all County Ordinances.

SEMINAR APPROVAL

- **WCCA Spring Conference 2005**
Best Western Midway Hotel, Wausau, WI, April 7 and 8, 2005.

Mrs. Haukohl moved, seconded by Mrs. Kipp and carried unanimously, for approval, for the Commission to attend the WCCA Spring Conference.

ADJOURNMENT

With no further business to come before the Commission, Mrs. Kipp moved, seconded by Mrs. Gennrich to adjourn at 3:40 p.m.

Respectfully submitted,

Ellen Gennrich
Secretary

EG:kb